

CASE
OF
JAMES PERCY,
Claymant

To The
Earldom of Northumberland.

WITH

An Impartial Account of the Proceedings he hath made in the
several Courts of Justice in order to the Proving and ob-
taining his Right and Title to the said Earldom.

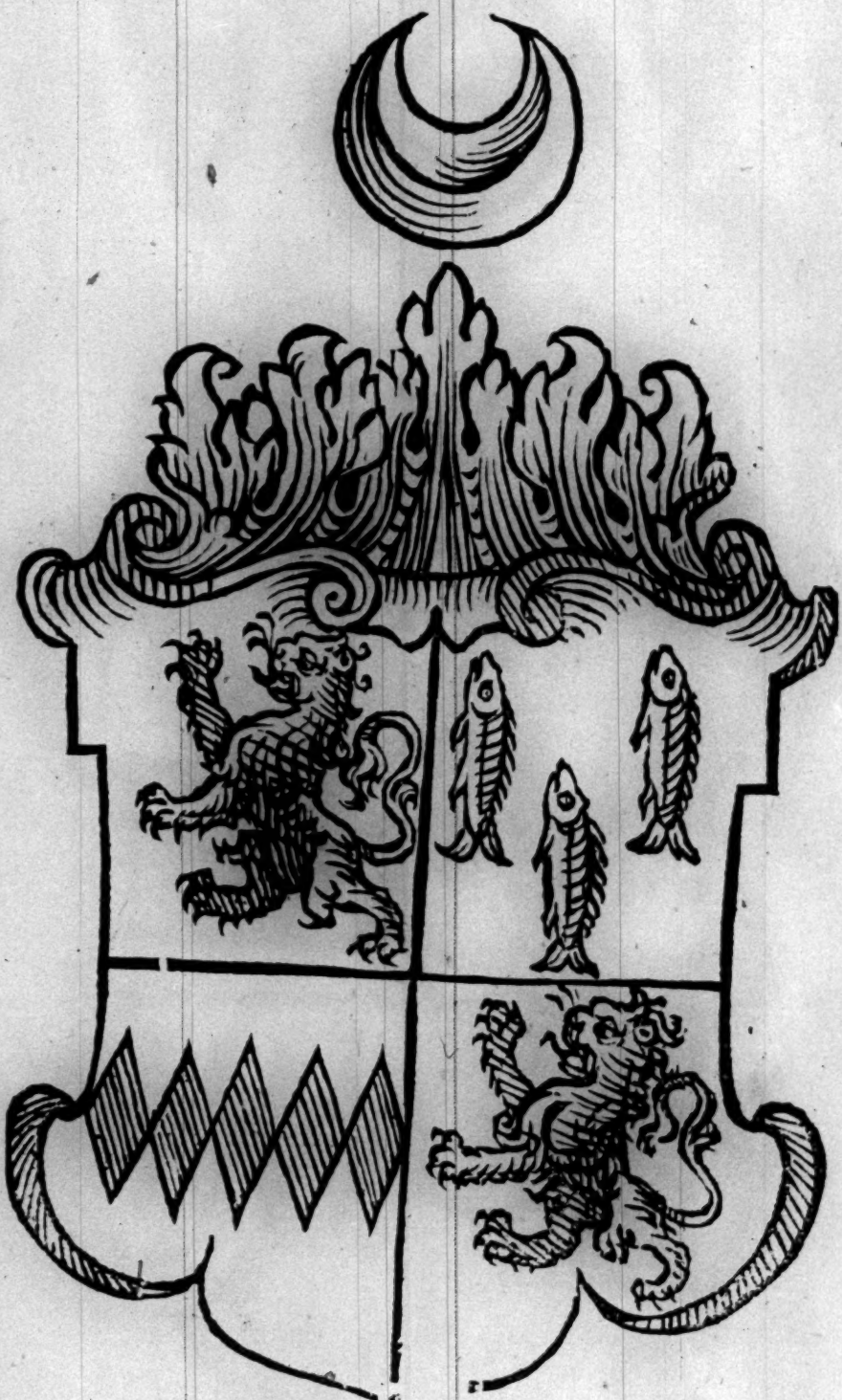
Humbly Addressed to the **KINGS** Most Excellent Majesty,
and the Right Honourable the **LORDS** Spiritual and
Temporal in **PARLIAMNET** Assembled.

Prov 8. 15.

By me Kings Reign, and Princes Decree Justice.

LONDON, Printed in the Year, 1685.

HENRY PERCY, *Fifth* Earl of Northumberland,
Married; and had Issue Three Sons, viz.

I.	II.	III.
<i>Henry Percy, 6th. Earl of Northumberland, Married, and dyed without Issue.</i>	<i>Thomas Percy, Married and had Issue; But when Fosceline Percy the 11th. Earl dyed; the Heirs Males of this Line were Extinct also.</i>	<i>Sir Ingelram Percy, Married and had Issue 2 Sons, (viz.) Henry, and Robert.</i>
		<i>Henry Percy, Eldest Son, Married, and had Issue 3 Sons (viz.) James, William, and Henry; But the 2 elder Brothers died without Issue-Male.</i>
		<i>Henry Percy, (Third Son,) Married, and had Issue 3 Sons (viz.) Henry, James, and Henry: But the two Henryes dyed young.</i>
		<i>James Percy, (the now Claymant) Married, and hath 3 Sons, (viz.) Anthony, Henry and John.</i>
		<i>Anthony Percy, is Married, and hath Issue, Henry Percy, Grandson of James Percy the now Claymant.</i>

*The following Account makes out this Pedigree fully,
from Henry Percy 5th. Earl of Northumberland,
to the Claymant James Percy.*

A True Pedigree to prove the Claymant, James Percy, to be the second Son of Henry Percy of Horton in the County of Northampton, who was third Son of Henry Percy of Pavenham in the County of Bedford, who was the Eldest Son of Sir Ingelram Percy, K^{nt}. who was the third Son of Henry Lord Percy, 5th. Earl of Northumberland, By which Descent the Claymant is Cousin and next Heir-Male to Joscelin Percy the late and 11th. Earl of Northumberland Deceased.

HENRY Lord PERCY, Fifth Earl of Northumberland, Lord of the Honours of Cockermouth and Petworth, Lord Percy, Lucy, Poynings, Fitz-payne and Bryan, and Knight of the most Noble Order of the Garter,

Who Married Katherine, one of the Daughters and Co-Heirs of Sir Robert Spencer Knight; by whom he had Issue,

1st. Henry Lord Percy. 6th. Earl of Northumberland; who Dyed without Issue.

2. Thomas Percy Knight, who was Executed; had to Wife, Eleanor, one of the Daughters and Co-Heirs of Sir Gwichard Harbottle Knight; by whom he had Issue, Thomas the 7th. Earl of Northumberland, who was beheaded at York, and dyed without Issue-Male; And Henry the 8th. Earl of Northumberland, whose Issue is incerted hereafter.

3d. Sir Ingelram Percy Knight; who was Married, as by the Oath of Mr. Henry Champion, who kept the Books and Records of the Percies.

Henry Lord Percy 6th. Earl of Northumberland, Lord of the Honours of Cockermouth and Petworth, Lord Percy, Lucy, Poynings, Fitz-payne and Bryan, Knight of the most Noble Order of the Garter, who Dyed at Hackney near London the day before the Calends of July, 1537. leaving no Children behind him, The Dignity of the Earl of Northumberland was vacant till the time of Edward the VI. John Dudley Earl of Warwick, Viscount Lisle, Lord Bassett and Tyes was Intituled Duke of Northumberland the 5th. year of King Edward the VI. But when he was Dead, Thomas Percy Nephew to this Henry by Thomas his Brother, who was Executed; In the Reign of Queen Mary, was restored to all the Honours of that Family.

Thomas Percy, Nephew to Henry the 6th. Earl of Northumberland by his Brother Thomas, when the stock of the Percies were fading; to their Relief was invested in the Earldom of Northumberland, which the Earl of Warwick held before; and thereby was the 7th. Earl of Northumberland of that Family, Lord of the Honours of Cockermouth, Petworth, Lord Percy, Lucy, Poynings, Fitz-payne and Bryan; Queen Mary bestowing those Honours upon him, and his Heirs Male; (and for want of such Issue, Then to Henry his Brother, and his Heirs Male,) by her Letters Patents, dated the first day of May, 1557. and whatsoever else of the Antient Patrimonies of the Earls remained, Seised, or Forfeited: But if He should die without Issue Male, Then it should go to his Brother Henry, and his Issue Male. And although (to Honour him the more,) Queen Elizabeth made him Knight of the most Noble Order of the Garter; Yet He, (unmindful of all these Benefits,) Conspir'd with Charles Earl of Westmerland, to Depose, by Force, Queen Elizabeth; So by Authority of Parliament he was Condemned for High Treason, and as Chief in the Conspiracy, was beheaded at York, 14th. Year of Queen Elizabeth.

B

That

That he Married *Anne* the Daughter of *Henry Somerset* Earl of *Worcester*, and had Issue Male, *Thomas*, who dyed young, and four Daughters; Heirs Males Extinct.

And *Henry Percy* 8th. Earl of *Northumberland*, Lord of the Honours of *Cockermouth*, *Petworth*, Lord *Percy*, *Lucy*, *Poynings*, *Fitz-payne* and *Bryan*; all enjoyed those Honours by virtue of the Letters Patents given by *Queen Mary* to his Brother *Thomas*, and was Created Earl of *Northumberland*, Anno 1574. and after accused of Treason; and being in the Tower of *London*, slew himself with a Dag charg'd with Two Bullets, (before his Cause was heard, or that he was Arraigned,) in the Month of *July*, 1585.

ARMS Quarter'd as before.

Who Married *Katherine* one of the Daughters and Co-Heirs of *John Nevel* Lord *Latimer*, by whom he had Issue,

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| 1. <i>Henry</i> the 9th. Earl. | 5. Sir <i>Richard Percy</i> Knight. |
| 2. <i>Thomas</i> , who dyed young. | 6. Sir <i>Alan Percy</i> Knight. |
| 3. <i>William</i> . | 7. Sir <i>Josceline Percy</i> Knight. |
| 4. Sir <i>Charles Percy</i> Knight. | 8. <i>George Percy</i> Esq; |

Henry Lord *Percy* 9th. Earl of *Northumberland*, Lord of the Honours of *Cockermouth* and *Petworth*, Lord *Percy*, *Lucy*, *Poynings*, *Fitz-payne*, *Bryan*, and (in his Mothers right) Lord *Latimer*; He was Knight of the most Noble Order of the Garter, by *Queen Elizabeth*, in the Year of our Lord, 1593.

Who Married *Dorothy*, Daughter of *Walter Devereux*, Earl of *Surrey*; by whom he had Issue,

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| 1. <i>Algernoon</i> , the 10th. Earl. | 2. Lord <i>Henry</i> , who dyed without Issue. |
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Algernoon, the 10th. Earl of *Northumberland*, Lord of the Honours of *Cockermouth* and *Petworth*, Lord *Percy*, *Lucy*, *Poynings*, *Fitz-payne*, *Bryan* and *Latimer*, Knight of the most Noble Order of the Garter, Lord Admiral of *England*, and General over His Majesties Forces for his Expedition in Anno 1640. and one of his Majesties most Honourable Privy Council: He Married Two Wives: by the former he had four Daughters; and by the latter Wife, 1 Son, (viz.) *Josceline*.

Josceline, the 11th. Earl of *Northumberland*, Lord of the Honours of *Cockermouth* and *Petworth*, Lord *Percy*, *Lucy*, *Poyning*, *Fitz-payne*, *Bryan* and *Latimer*, Deceased;

Who Married *Elizabeth*, Daughter to the Earl of *Southampton*, by whom he had Issue,

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| 1. <i>Henry</i> , who dyed young; before his Father. | |
| 2. <i>Elizabeth</i> , who Marry'd the Lord <i>Ogle</i> . | (Heirs Males Extinct.) |

The Collateral Line.

Sir *Ingelram Percy* the 3d. and youngest Son of *Henry Percy* the 5th. Earl of *Northumberland*; was married, and had Sons and Daughters, (as by the Oath of Mr. *Henry Champion*, who kept the Percies Books and Records; where he found what he testify'd upon Oath, at the Tryal between *Utting* Plaintiff, and *Coppleston* Defendant) He had Issue, viz.

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| 1. <i>Henry Percy</i> , | } and two Daughters. |
| 2. <i>Robert Percy</i> , | |

About 1559. these four Children were (in the time of Troubles in *Queen Elizabeths* Days) sent out of the North in Hampers, to old Dame *Vaux* at *Haraden* in *Northamptonshire*, and there were brought up, preserved, and provided for. Therefore it is concluded by all, that Sir *Ingelram's* Lady (the Mother of those Children,) must be related to Dame *Vaux's* Family.

Henry, the eldest Son of Sir *Ingelram*, Married the Daughter of one *Tibbott*, by whom he had Issue,

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| 1. <i>James Percy</i> , who dyed about the year 1654. in <i>Ireland</i> , without Issue-male. | |
| 2. <i>William</i> , who died young. | |
| 3. <i>Henry</i> . | And three Daughters. |

Henry Percy Married *Lydea* the Daughter of Mr. *Robert Cope* of *Horton* in *Northamptonshire*, by whom he had Issue.

1. *Henry*,

1. Henry, who dyed young.
 2. James.
 3. Henry, who dyed young.
- } One Daughter, named *Elizabeth*.

James, the now Claymant, born 1619. of *Henry* and *Lydea* his Wife, who was 3d. Son of *Henry*, who was first Son of Sir *Ingelram*, who was 3d. Son of *Henry*, 5th. Earl of *Northumberland*, who was great great Grandfather of the Claymant *James Percy*, who married *Sarah* the Daughter of *John Sawyer* of *Norwich*, Gent. by whom he hath Issue,

1. *Anthony Percy*, Married and hath a Son (*viz.*) *Henry*.
2. *Henry*.
3. *John*.

In May 1670. *Joscelin Percy*, late Earl of *Northumberland* departed this Life in parts beyond the Seas; after whose death, the Honours descended to the now Claymant *ut per* the Pedegree aforesaid.

October the 11th. 1670. The Claymant Arrived in *England* to prosecute his Claim to the Earldom of *Northumberland*; at which time it being given out, that the Countess Dowager of the said *Josceline* was with Child; the Claymant desisted untill the contrary was evident.

February the 3d. 1670. The Claymant entred in His Late Majesties Signet-Office at *White-Hall* his Clayme to the said Earldom, as Cousin and next Heir-Male to *Josceline*, and to the Title, Style, Honour and Dignity of Baron *Percy*, and Earl of *Northumberland Cum pertinentiis*, and to the Annual Rent or Fee of 200*ll.* with which the said Honour and Dignity is endowed payable by the Sheriff of *Northumberland* out of the same County; And at the same time entred there also his Caveat, that no Grant might be made thereof to any Person.

In the same Year 1670. The Claymant, in Order to the Recovery of his Right, applied himself to Sir *Heneage Finch* then Attorney General to His Late Majesty, and desired him to sign the Claymants *Quo Warranto*.

In the same Year 1670. the Claymant humbly addressed himself by Petition to His Late Majesty for redress in that matter, who was graciously pleased to send Sir *John Birkenhead* to the said Attorney General, to demand of him from his Majesty why he did not sign the Claymants *Quo Warranto*; who returned for answer, *That he could not do it, as he was of Council with the Defendant, the Countess Dowager of Northumberland.*

This Answer of the Attorney Generalls being signified to His Majesty, he was pleased expressly to refer the Claymant to Sir *Edward Walker*, and Sir *John Birkenhead*, to inquire and search into the Claymants Pedigree; for which purpose the Claymant attended them with his Council Mr. Serjeant *Brampton*, where the matter was debated; and there then appearing some difficulty to find with certainty, who was the Claymants Great Grandfather: It was the joyned advise of Sir *Edward Walker*, Sir *John Birkenhead*, and Serjeant *Brampton*, That the Claymant should at adventure Clayme under some one of the Family of the *Percies*, and not delay his prosecution any longer; they all then declaring to the Claymant, that in case he pitcht upon a wrong Person to Clayme from, yet it could not prejudice the Claymant; for that on the contrary would be a means to find out the Right Person.

Pursuant to this Advice, the Claymant took his descent from Sir *Richard Percy* as his Great Grandfather; and the matter thereon coming to be heard before the Lords in Parliament, Sir *Richard Percy* appeared to be too young to be the Claymants Great Grandfather; Serjeant *Pemberton* then of Counsel with the Claymant, informed their Lordships of the Reason and Advice aforesaid of the Claymants fixing upon Sir *Richard Percy* as his Great Grandfather; and that notwithstanding the mistake, yet the same could not, nor ought really to prejudice the Claymant,

as to any definitive Sentence to be passed thereon by their Lordships, against the Claymant; For that the matter of the Claymants Right and Claim ought first to be Tryed in the Inferiour Courts; and in case the Truth of the matter could not be found out and determined at Law, then (and not before) it was proper for their Lordships Judgment and Determination; with which their Lordships were satisfied.

Upon this the Claymants Adversaries procured to be Published in the Gazets, That the Claymant was an **Impostor**; and at their Courts, declared to the Tenants, That his Name was not Percy, but that he was a Bastard, and that they could prove, that *Henry Percy*, who he declared was his Father, was never married: the Consequence of which evil, and unheard of practices, Was

1st. Rendring the Claymant Odious to the World. And

2^{ly}. Through the foul practice of the Claymants Solicitor, there was a misinformation given unto His Late Gracious Majesty of ever Blessed Memory, who thereupon gave the Title and Land away, which multiplied not only Enemies, but Power against the Claymants Just demands: In Order to the removing these Obstacles, convincing the World of the Malice of his Adversaries, and clear himself of these vile Imputations, to assert his undoubted Right to the Honours and Earldom of *Northumberland*, the Claymant brought his Action of Scandal against Mr. *John Clerk* one of the Adversaries principal Agents.

In 1674. The Cause came to Tryal (*Clerk* having for a long time before sheltred himself under Priviledges of Parliament) where notwithstanding the Claymant prov'd himself Legitimate by Father, Mother, Grandfather and Grandmother; yet the Claymants Attorney, with colusion, and without the Claymants consent, suffered a Non-Suite; upon which the Lord Chief Justice *Hale*, stood up and declared his dissatisfaction thereat; saying in open Court, *That the Claymant had fully proved himself a true Percy, by Father, Mother, Grandfather and Grandmother, and of the Blood and Family of the Percyes of Northumberland, and that he did verily believe the Claymant was Cousin, and next Heir Male to Josceline Percy late Earl of Northumberland: only he was afraid, he had taken his Descent a little too low.* Nay, the Jury (then Impanneld, and sworn upon the Tryal; after the Tryal, had a Treat given them by the Adversaries) declared thus to *Clark* the Defendant in the Suit: *Sir, You are beholding to the Claymant James Percy, for suffering a Non-Suit; for truly, otherwise we must have given a Verdict against you for him; his Pedigree was proved so clear.*

Note, The Damages in this Action was laid at 10000*ll*.

Note, Immediately after this Tryal was over, the Court of *Kings-Bench* risen, and the Judge going to his Coach, the late Earl of *Shaftsbury* meeting him at his Coach, sayd thus to the Judge, *My Lord, I hear Mr. Percyes Tryal was to day; I pray, What do you think of him? To which the Lord Chief Justice Hales, (with much earnestness) replied, I verily believe he hath as much right to the Earldom of Northumberland, as I have to this Coach and Horses which I have bought and paid for;*

Note, The Earl of *Shaftsbury* when he was Lord Chancellor of *England* was by Agreement with some of the Adversaries to have had Lands of the *Percies* to the value of 30000*ll*. for what purpose let the prudent and unprejudiced judge.

After this, the Claymant (pursuant to Judge *Hale's* Intimation) endeavoured to search higher for his Pedigree, and for that purpose repaired to the Right Honorable, and truly Noble and Vertuous the then Countess of *Dorset*, *Pembroke* and *Montgomery* at *Appleby-Castle*, at such time as Judge *Wild* and Judge *Ellis* (in their Circuit) Dined there; when and where (after a long discourse had between the said Countess and the Claymant touching his Claym to the Earldom of *Northumberland*, and inquiry after his great Grandfather) the Countess in the presence of
Sir

Sir Thomas Stringer, and Sir John Otway, said thus to the Claymant: *If you be of Kin to me, you must be Descended from those Children that were sent into the South in Hampers, in the Troublesom times, in Queen Elizabeth's Days*; which proved a happy intimation to the Claymant, for thereby he at last arrived to the knowledge of his Great Grand Father, as in the Pedigree.

Some short time after this, the Claymant brought an Action in Ejectment, in the Court of *Kings-Bench*, for *Cannington*, and *Rodway* in *Somersetshire*, against Sir John Copleston, Trustee for the Lady Clifford; against which Sir John sheltered himself, under Privilege, for a considerable time; but at length, to wit, In the Term (as the Records will make appear) this Tryal came on, where the Claymant fully proved his Pedigree; and that he was Cousin, and next Heir-Male to *Jocelin Percy*, late Earl of *Northumberland*; and it is especially to be Noted, That, whereas at the first Hearing in Parliament, the Adversaries produced one Sir John Hanmer, who deposed, That Sir Richard Percy dyed in *France*, Anno 1648. and was never Married, but was Buried with Ribands and Gloves, as a Batchellor. Now (at this Tryal with Sir John Copleston) the Claymant proved by Mr. Henry Champion (who kept the Books and Records for *Algernoon Tenth*, and *Jocelin Eleventh* Earls of *Northumberland*) that he found in those Books and Records, that Sir *Ingelram Percy* was Married, and had Sons and Daughters: And the Court then Declared, That the Claymant had fully proved his Pedigree, and Right of Claim, and willed him to proceed to the Title of the Lands in question; unto which, the Claymants Council replied, They had proved his Pedigree and Right; and conceived the Lands must attend that, and that they relying therein, were not prepared nor Instructed to proceed further, than to prove the Claymants Legal Lineal Descent. Whereupon, for want of certain Evidences and Records touching the same Lands, then in the Defendants Custody; a Non-suit was had against the Claymant, and *Seventy Pound Costs* Awarded.

Note, Upon payment of these Costs, Sir John Copleston Offered to the Claymant, That if he would relinquish his Right to those Lands in *Somersetshire*, he should have some consideration for the same; and further, That he the said Sir John Copleston, would furnish the Claymant with such Writings as should enable him to recover above 5000. *Per Annum*, good Lands.

The Claymant brought another Action of Scandal against one Mr. Wright, another of the Adversaries Agents, for the like Scandalous words with those spoken by Clark. This Cause was tryed before the Lord Chief Justice Rainsford, where the Claymant proved his Legitimacy and Pedigree by several Witnesses; so fully and clearly; and to that fullness and Satisfaction, that before he had Examined half his Witnesses, the Lord Chief Justice Rainsford stood up, and said, *You Gentlemen of the Jury, we need not trouble the Court further in Examining any more of the Plaintiffs witnesses, by reason his Pedigree hath been fully proved before, at a former Tryal, at the Bar of this Court* So a Verdict passed for the Claymant: But when the Jury brought in but Three Hundred Pounds Damages, the Lord Chief Justice was angry with them, for not giving the Plaintiffe greater Damages.

Note, This Verdict, and the Judgment there upon, is Exemplified.

In June 1676. The Claymant brought another Action of Scandal in the *Guild-Hall* London, against John Blackstone Esquire, Agent for the Lady Elizabeth Percy; who kept her Courts, and had spoke the like scandalous words against the Claymant, in delivering his Charge to the Juryes and Tennants, That Blackston Removed the Cause into the Court of *Kings Bench*.

May 7. 1677. Appointed by the Court for Tryal, and the Master of the Office attended by both sides, & a Jury struck, & the Claymant prepared for Tryal, & brought

up *Sixty-Five* Witnesses; several of which came from the most remote parts of the Kingdom; the Travel in Sommoning, and bringing them to *London*, above *Four Thousand* Miles: The Charges thereof, and in retaining, and feeing fourteen Councels for the Tryal, amounting to above *Four Hundred* Pounds.

At the day appointed, the Claymant attended with his Counsel and Witnesses, prepared for Tryal; when the Defendants Counsel Insisted, the Defendant was privileged, as Agent of the Countess Dowager of *Northumberland*, that he was Steward of her Courts, and Receiver of her Rents; and therefore if the Claymants Counsel proceeded to the Tryal, it should be at their Perils; which so awed them, that they refused to Plead; declaring, they had no mind to go to the *Tower*: Some of them having been there upon the like occasion before. And so the Tryal was put off; at which the Court seemed much dissatisfied; and particularly, Mr. Justice *Wild* stood up in open Court, declaring his resentment of the Adversaries practices in these words, *viz. Fye, fye, Gentlemen; Is this a time to insist upon Priviledges; when you forc't the Plaintiff to this Tryal, and have put him to so great Expence, Travel, and Labour? You do but cast cold Water upon your Cause. It is not the first time this Cause hath been before this Court.*

After this, *Blackeston* sheltering himself under the late Earl of *Essex's* privilege, (the Countess Dowagers being taken off by Order of the House of Lords upon another occasion) the Clayment Petitioned the House of Lords to discharge *Blackeston's* privilege, under the Earl; whereupon an Agreement was made between the Earl, and the Claymants Counsel; that the Clayment paying Ninety Pound Costs into Court (then unpaid upon the Non-suit against *Clarke*) *Blackeston* should not stand upon Privilege, but go forth-with to Tryal; whereupon the Claymant paid the Ninety Pound Costs into Court, there to remain, until a fair Tryal had; and the *11th. of November, 1678.* the Tryal came on, and after opening of the Cause, the Defendants Counsel took Exceptions to some Point in the Declaration, which, after a debate, was waved; the Action judged to be well laid, and the scandalous Words proved.

Then the Claymants Counsel proceeded to call Witnesses, to prove his Pedigree upwards, as being the better way to satisfy the Court, and inform the Jury; and that the Claymant could not possibly Arrive at, any present better way to prove his Pedigree, than by his Action of Slander; For that the Claymant had before that delivered Declarations in Ejectment in several Counties, but the Lands being all in the hands of great Personages, stopt his Proceedings, on such Ejectments by Privilege, which Candidness of the Claymants Counsel was unreasonably made use of to the Claymants great Damage. For hereupon Draughts of the Claymants Pedigree being delivered to the Judges, the Lord Chief Justice *Scroggs* said, *what need you trouble the Court to Examine all these witnesses, if there be no Lands; therefore let us see first, what Lands there are.*

Then the Claymant produced divers Records out of the *Tower*, and elsewhere; which evidenced, that the Lands (late the Lady *Lucy's* in *Cumberland*, and other Counties, in the Records especially named) were Settled upon the Heirs-Males of the *Percies* for ever, tending *three Hundred* Pounds to the King, &c. and quartering the said *Lucy's* Coat of Armes next their own, and before the *Percies*.

Here the Defendants Counsel started up an Attainder of Sir *Thomas Percy* in King *Henry the Eighth's* time, also his Son in the Reign of Queen *Elizabeth*, which being new to the Claymant, and therefore his Counsel not prepared presently to answer, time was given to the Clayment, to Inform and prepare himself to answer that matter; and a further day appointed for Tryal, and the Jury then Sworn, with-drawn; and after that, two several dayes appointed for Tryal, and also a third day, to wit, the *27th. of January, 1678.* But

The

The first day of *Hillary* Term, 1678. the Defendants Council moved the Court, for a new Jury, and also for a further day for Tryal; both which the Court granted. Yet after all this, the Defendant moved again for a longer day, which was granted, until *Thursday* the 6th. of *February*. Notwithstanding all which, and that the Claymant had (at a vast Expence) kept his Witnesses in Town, all this time, yet would not the Court Award him any Costs.

Note, In the Lord Chief Justice *Hayles* time, it was otherwise; for, in the Suit brought as aforesaid against *Clarke*, the Defendant moving to put off that Tryal for seven days, on pretence he was not prepared; the Court Awarded the Defendant to pay the Claymant *Thirty Five* Pound Costs, in respect of the Charge of keeping his Witnesses in Town, before any further time given for Tryal; and which was paid accordingly.

Sixth of *February*, 1678. The New Jury appeared, and the Tryal came on again; the Cause opened, and one of the Witnesses called to prove the Words; who appearing, the Court declared he had sufficiently proved them before. So no Exception being made thereunto, or to any matter in the Declaration, by the Defendants Council: It was Agreed to proceed, and take up the Case, where they left at the former Tryal, the 11th. of *November*.

Hereupon Copys of the Records of the Patents in Queen *Maryes* time (*viz.*) One for the Barony, and the other for the Earldom, were produced. Upon this, the Defendants Council Objected the Attainder of *Thomas Percy*. Against which, the Claymants Council insisted, and Evidenced, That the Claymants Descent and Claim was Paramount the Attainder, and that the same could not, in any sort, affect the Claymant, and which was admitted by the Court.

This Point being thus Cleared, the Claymant descended to Examine his Witnesses to prove his Pedigree, but the Defendants Council declared, They admitted and owned the Claymants Pedigree and Title, but that could not Affect the Lands, for that by an Act of Parliament touching Exchange of Lands between King *Henry* the Eighth, and *Henry Percy* the Sixth Earl of *Northumberland*, and others, the Limitations in the Settlement, under whom the Claymant Claymed, were destroyed. But this Point being also answered, as well by several Savings in that Act, as otherwise; and the Claymant Pressing, That he might be permitted to Examine his Witnesses, to prove his Pedigree, and proceed in the Cause: The Defendant then resorted to their first piece of Craft, and Insisted upon a pretended Insufficiency in the Declaration, and which had been debated, and waved as aforesaid; but the Lord Chief Justice *Scroggs* now falling in with them, would not suffer the Claymants Witnesses to be Examined, as to his Pedigree; but on the contrary, Cryed out *The Declaration is nought, the Declaration is nought*; whereupon, the Claymant was driven to suffer a Non-Suit.

After this, the Claymant brought an Ejectment, for recovery of that part of the Estate belonging to the Earldom, called the Lady *Lucyes* Lands; and in 1681. brought the same to Tryal at the *Kings-Bench-Bar*, where the Claymant fully proved his Pedigree; and so was Declared by the Court; But by the evil Practises of the Adversaries, with the Person that managed the Cause for the Claymant; and his not producing, at the Tryal, the Copy of the Grants, made by *Richard* the Second, to the Earls of *Northumberland*; for want thereof, and some other Records the said Agent was entrusted with, by the Claymant, the said Tryal passed against the Claymant. The then Lord Chief Justice *Pemberton* standing up in Court, and saying to the Claymant, *Mr. Percy, Your Cause is ill managed, suffer a Non-suit.*

Note, Through the like Practises, and evil Dealings of another of the Clay-
mant's

mants Agents, one Mr. *James Hooton*, the Claymant lost the benefit of two Writs of Error brought in the House of Lords.

By these Methods the Claymant proceeded in the Courts of Law singly.

Now for Equity and Law together:

The Earldom of *Northumberland*, being heretofore endowed by his Majesty's Ancestors, with an Annual Rent or Fee of *Twenty Pounds per Annum*, payable by the Sheriff of *Northumberland*, out of the County.

In order to the Recovery thereof, and Affirmance of the Claymants Title, he exhibited his Bill in his Majesties Court of *Exchequer*, against *Edmond Craister* Esq; the then Sheriff of *Northumberland*, for Recovery of the said *Twenty Pounds per Annum*; not in the least doubting, but to bring the Merits of that Cause to a speedy Issue; but on the contrary, notwithstanding, the Sheriff was otherwise an uninterested Party then, only as the hand to pay the *Twenty pounds per Annum* to the Claymant, and have it again allowed in his Accounts. Yet the Spirit and Practices that had hitherto opposed the Claymant, in his Prosecuting his just Right in the Courts of Law, appears in this also: and that the World may see it plainly, take this following Account of those Proceedings, *viz.*

In *Trinity-Term*, 1682. The Bill was fyled against Mr. *Craister*, who appears, but sits in Contempt for not answering; whereupon four several Attachments issued against him, directed to the Coroner of the County of *Northumberland*; but before any Obedience would be given thereunto, or Execution procured thereon, the Claymant (Plaintiff in the Cause) was necessitated to be at the extraordinary Expence of sending Persons on purpose, from *London* into *Northumberland*, to procure the same to be Executed.

Note, These Delays spent all *Trinity*, *Michaelmas*, and *Hillary-Terms*, 1682. and *Easter-Term*, 1683.

Trinity-Term, 1683. The Coroner returns *Cepi Corpus*, but neither brings in the Body, nor Assigns the *Bail-Bond*, and is therefore amerced *Five* pounds.

Michaelmas-Term, 13 November 1683. The Plaintiff moves, and obtains an Order for a further Amerciament of *Ten* pounds against the Coroner, and liberty for the Plaintiff to Examine his Witness, *de bene esse*.

November the 20. 1683. Upon another Motion a further Amerciament of *Twenty* pounds.

November the 27. 1683. Upon another Motion, a further Amerciament of *Forty* pounds.

Hillary-Term, 1683. January 25. Upon another Motion, a further Amerciament of *One Hundred* pounds; and then Ordered, that the former Amerciaments should be forthwith Estreated and Levied.

February 12. 1683. Upon another Motion, a further Amerciament of *Fifty* pounds, and to be forthwith Estreated.

Easter-Term, 1684. April 16. Upon another Motion, and Information of these Matters; and that no Obedience was given by the Coroner: It was Ordered, That the Comptrollor of the *Pipe*, should forthwith Issue special process to the Sheriff of *Northumberland*, for Levying those Amerciaments; and that the Process should be returnable the first day of the next *Term*, and that Mr. *Craister* should not have his *quietus*, until he had answered the Plaintiffs Bill, and cleared his Contempts; yet no Obedience yielded.

10 of May 1684. Upon another Motion, a further Amerciament of *One Hundred* and *Fifty* pounds.

30 of May 1684. Mr. *Craister* put in his Answer, and upon the Plaintiffs Motion, it was referred to the Remembrancer, to Tax the Plaintiff his Costs for these Abuses and Delays, which amounted to *One Hundred Sixty Four* pounds, *Twelve* shillings, *Six* pence; and yet Taxed but at *Twenty one* pounds, *Sixteen* shillings, and *Six* pence.

Now

Now any reasonable Man would have Imagined, That after all this Delay and Contempt, this small Pittance of 21 *l.* 16 *s.* 6 *d.* Costs, should have been readily paid: But observe the contrary.

20 *June* 1684. Upon the Plaintiffs Motion, Ordered, That unless Mr. *Craister* (by *Monday* then next) pay to the Plaintiff the Costs Taxed, the Amerciaments should forthwith be levied.

27. *June* 1684. The Plaintiff Moves further, and informs the Court, The Costs were not paid; whereupon ordered, the Costs be paid that day, and 10 *s.* for that Motion; but not a Penny paid.

Michaelmas-Term 1684. *Nov.* 4. The Plaintiff Moves the Court again, and Informs, That no Costs is paid, nor any Obedience given to the Orders of the Court; whereupon an Attachment was Awarded against *Craister*, unless he paid the 21 *l.* 16 *s.* 6 *d.* and 10 *s.* and 40 *s.* more for increase of Costs within a Week: but no Obedience given.

Hereupon the Plaintiff (by Petition to the Barons of the *Exchequer*) sets forth the whole progress the Cause had had; and that to put the Plaintiff to Prosecute *Craister*, *de novo*, with the ordinary Process, was to run the old course over again, *in infinitum*; and that the Plaintiff having taken all the Methods that Counsel could advise, and to no purpose; prayed the Consideration thereof by the Court, and such course to be taken with the Defendant, as might enforce Obedience for these or the like Reasons, inserted in his Petition.

First, The notorious and out-daring Practices of the Defendants, and Coroners flying in the Face of the Court, by their unpresidented Disobedience to Authority, and rendring the same Contemptuous to all, and ineffectual in its Justice to the prosecutor.

Secondly, The Ruin hereby following the Suitor, not only by the Excessive Charge, but Delay.

Thirdly, For that it's dishonourable, and reflects upon the Justice, as well as Power of the Court, That any person should be suffered to dare and trifle with Justice, and Ruin the Prosecutor immediately under the protection thereof; if after such Delay, he must yet further suffer in his real Expence, occasioned meerly by this unparallel'd Contempt of Justice; The loss of near 17 *s.* 6 *d.* in the pound, the Costs taxed being little more than 2 *s.* 6 *d.* in the pound: And

Lastly, For that nothing deters any Person from Contemning Justice, but making the Delinquent Exemplar.

Upon this Petition, the Court ordered, That if *Craister* did not pay the Costs by a day certain in *Michaelmas-Term*, 1684. then all the former Amerciaments to be forthwith Levied, and a further Amerciament set.

Notwithstanding all which, the Plaintiff was put to the Charge of several other Motions for the Costs; and they not paid until the beginning of *Hillary-Term* last.

9 *January* 1684. The Claymant, by Petition, humbly Addressed himself to his late Sacred Majesty, and the Lords of his Privy-Council, briefly setting forth the said Matters in the Suit against *Craister*; and that the proceedings of *Craister* (and the Coroner) were in notorious Contempt of His Majesties Dignity and Authority; and tended not only to the bringing His Majesties Courts of Justice into Contempt, but to the Obstruction of Justice in general, and utter Ruin of the Claymant in particular.

Upon this Petition the Claymant received a Gracious verbal Answer, That the whole Matter of the Petitioners Cause should be heard and determined in the next ensuing Parliament.

That it being necessary to make his said late Majesty, by his Attorney General,

a Defendant to the Claymant's said Bill, in the Court of *Exchequer*, he made humble Application to the said *Attorney General*, to put in an Answer thereunto; but hath not hitherto been so happy, as to obtain the same; whereby the Claymants further proceedings in that Cause, are at a full stop.

Now it remains, that the Claymant answer some *Objections* much insisted on by his Adversary: As,

Object. I. *That the Claymant, at first, derived his Pedigree from Sir Richard Percy, as his Great Grand-Father, and afterwards from Sir Ingleram Percy.*

Answ. This is admitted to be true in Fact; but the occasion of deriving from *Richard Percy*, was:

1. The Matches of the *Percies* were rent out of the *Heralds Book*, and *Sir Ingleram Percy's* was quite left out of the First Pedigree.

2. The Misfortunes of the Family of the *Percies* in *Queen Elizabeth's Time*; and thereby, those of them under whom the Claymant is immediately Descended, driven out of their Native Country, and from their Father's House, in a most obscure manner, meerly for Preservation of their Lives in their tender Years.

3. The taking away the *Court of Wards and Inquisitions, post mortem.*

4. The Interruption in the Executing the Office of *Heralds*, in the Times of the late Rebellion.

5. The Adversaries having the Advantage of possessing themselves of all the *Memorandums and Records* of the late *Earls of Northumberland, Algernoon and Joscelin*, and the Pedigrees and Descents of that Family.

6. The Advice above-said, given to the Claymant by *Sir Edward Walker*, *Sir John Berkenhead*, and the Claymant's Council, to fix upon a Wrong Party, as the only way to find out the Right; and which, in truth, had the hoped-for Effect. Nor is this an *Objection* with any knowing, intelligent, unbiass'd Person; it being a thing frequently in practice in the Courts of Law.

Object. II. *The Obscureness of the Claymant, and Meanness of his Profession, having been a Trunk-maker.*

Answ. The Obscureness was, as before is said, from the Misfortunes and Difficulties of the Family of the *Percies*, in the troublesome Times of *Queen Elizabeth*.

Nor is it any real Disreputation upon any Noble Family; the supporting Families by Lawful Callings, though never so mean, being esteemed a Virtue by all virtuous Persons: And it's most frequent in the Noblest Families in *Germany*. To Train up their Sons in the learning Handicraft-Trades. Nor can any thing but Vice, disparage True Nobility. Besides, the Matter in Controversie, is not, Whether the Claymant was of this, or that Trade? but, Whether he be Cousin, and next Heir Male to *Joscelin Percy*, late Earl of *Northumberland*; which he hath at several Tryals, and in several Courts, proved to full Satisfaction of the said Courts, by all the Methods and Ways imaginable?

As by Proof of his Lineal Descent, and the Ownings and Declarations of the late *Earls of Northumberland, Algernoon and Joscelin*; That the Claymant (by the Appellation of *James Percy*, the Trunk-maker at *Dublin*) was of the Blood and Family of the *Percies*, and next Heir Male, after the said *Joscelin*, to the Earldom; and by divers other unanswerable Proofs.

This being the True State of the Claymant's Right and Title to the said Earldom, and of the Means by which he has endeavour'd to Recover his said Right; wherein he hath been obstructed by the Powerfulness of his Adversaries, and the Corruption of his Agents: He humbly submits to the Great Wisdom, Honour, and Justice of the King's most Sacred Majesty, and the Lords Spiritual and Temporal, in Parliament Assembled, (and where it's not possible, there can be any Failure of Justice) for Relief and Redress in the Premises.

To

Charles R.

To the KING's Most Excellent

MAJESTY,

The Humble Petition of *Charles Longeville Esq;* Cousin
and next Heir of *Henry* late Earl of *Kent*, Lord *Hastings*,
Longeville and *Ruthin*, deceased.

Humbly Shewing,



That *Reginald Grey* Your Petitioners Successor, whose Heir he is, was Seized to him and his Heirs, as of Fee and Right of the Dignities of Lord *Hastings* and *Ruthin*; That is to say, of the Title of Lord *Ruthin*, by descent from *Roger* Lord *Grey* of *Ruthin* his Father; and being so seized, was divers times, in the Reign of Your Majesties Royal Predecessors, King *Edward* the III. Summoned into the Court of Parliament, by the Name of *Reginald Grey* of *Ruthin*, and accordingly sat therein; and of the said Titles and Dignities dyed Seized, and by divers mean descents, the same Dignity descended unto *Edmond Grey*, Knight, who, by reason thereof, was seized of the Dignities thereof, as of Fee to him and his Heirs; and being so seized, the said *Edmond*, by the Name of *Edmond* Lord *Hastings* and *Ruthin*, was by the Letters Patents of Your Majesties Predecessors, King *Edward* the IV. Created Earl of *Kent* to him, and to the Heirs Males of his body begotten; and shortly after, of the Dignities aforeaid, dyed seized; after whose decease, the said Title of Earl of *Kent*, and of Lord *Hastings* and *Ruthin*, by divers Mesne Descents, did descend and come to Sir *Henry Grey* Knight, Cousin and Heir of the said *Edmond*: By reason whereof, he became of the said Dignities seized; That is to say, of the said Title of the Earl of *Kent* to him, and to the Heirs Males of the Body of the said *Edmond*: And of the said Title of Lord *Hastings* and *Ruthin* to him and his Heirs, and thereof dyed seized; by means whereof, as the said Title and Earl of *Kent*, is descended, and come to the Right Honourable *Anthony* now Earl of *Kent*, as Heir-Male of the Body to the said *Edmond*; so that the said Dignities of the Lord *Hastings* and *Ruthin*, are of right descended to Your Petitioner, as Rightful Cousin and Heir of the said *Reginald* and Nephew, and next Heir of the said *Henry* Earl of *Kent*; That is to say, Son and Heir of *Susan*, late Wife of Sir *Michael Longeville* Knight, Sister and Heir of the said *Henry*.

May it therefore please Your Excellent Majesty, Graciously to give Command for Your Petitioners Summons to this present Parliament, there to sit and enjoy the Place and Preheminences to the said Dignities to him descended, and of Right belonging; And Your Petitioner shall daily pray, &c.

His Majesties Reference.

At Our Court at *Whitehall*, the 25th. of *November* 1640.

WE are Graciously pleased to refer the Petition, and the Consideration thereof; and of the Petitioners Claim and Title to the Peers of Our Parliament; and Our Will and Pleasure, That Justice and Right be done hereupon.

Order hereupon, it was referred to the Committee of Priviledges, and the Lord *Ruthin*, to have notice of it, and a Copy of the Petition.

The

House of Lords.

The Opinion of the JUDGES of *England* in the
Case of *Charles Longeville Esq;*

Lunæ 1st. February, 1640.

THE Judges this day delivered their Opinion in the Case of the Lord Grey, and *Charles Longeville, Esq;* concerning the Titles of the Baronies of *Hastings* and *Ruthin*.

1. Whether a *Possessio Fratris* can be upon a Baronage by Writ.

And it was the Unanimous Opinions of the Judges, That there can be no *Possessio Fratris* in Point of Honour; And upon somewhat, which was spoken of in the Argument concerning Power, in Conveying away of Honour,

It was Resolved upon the question *Nemene Contradicente*.

That no Person that hath any Honour in him, and a Peer, may Alien or Transfer the Honour to any other person.

Resolved upon the Question.

That no Peer of this Realm can drown and extinguish his Honour (but that it descends to his Descendants) Neither by Surrender, Grant, Fine, nor any other Conveyance to the King.

Upon which the said House, Confirmed the said Opinion, and did accordingly Order the Dignities to *Charles Longeville Esq; Veneris 5. die Febr. Sequentis.*

*Vera Copia Examinat'
per Original' J.P.*

Die Martis 18. Junij, 1678.

FORasmuch as upon the Debate of the Petitioners Case, who Claims the Title of Viscount *Purbeck*: A Question at Law did Arise, Whether a Fine Levied to the King by a Peer of the Realm of his Title and Honour, can bar and extinguish the Title.

The Lords Spiritual and Temporal in Parliament Assembled, upon a very long Debate: And having heard His Majesties Attorney General, are unanimously of Opinion, and do Resolve and Adjudge, That no Fine Levied, or at any time hereafter to be Levied to the King, can bar such Title of Honour, or the Right of any Person, Clayming such Title under him that Levied or shall Levy such Fine.

Vera Copia { *Johannis Brown.*
Clerk Parl'

On the 9th. day of *January* last 1685. KING *Charles* the Second of Ever Blessed Memory, did then in Council direct, That the Petitioners Cause should be fully determined in PARLIAMENT.

Therefore the Petitioner presented to His Most Excellent Majesty KING *JAMES* the Second, the Claymants Petition, with Precedents annexed; wherein the Descent, Property and Right, by the Assent of His now Majesty; He is become the next Heir-Male, and Earl of *Northumberland*: which Petition was presented into His Sacred Majesties hands the 26th. of *May*, 1685. By *James Percy*.

Who further Prayes, That Your Lordships will be pleased to Intercede with the KING, for a speedy Determination of this matter, which hath been, in Contest about Fifteen Tears.